

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Statement of
Issues Against:

ANGELICA OJEDA
a.k.a. ANGELICA IBARRA

Case No. 2012 – 462

Applicant for Registered Nurse License

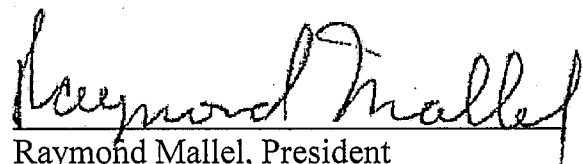
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **October 25, 2012**.

IT IS SO ORDERED **September 25, 2012**.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
Against:

12 **ANGELICA OJEDA, AKA ANGELICA**
13 **IBARRA**

14 2228 Orange Grove Avenue
Alhambra, CA 91803

15 Applicant for Registered Nurse License

16 Respondent.

Case No. 2012-462

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Statement of Issues.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the
26 Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Katherine Messana, Deputy Attorney General.

2. Respondent Angelica Ojeda, aka Angelica Ibarra ("Respondent") is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about December 7, 2009, Respondent filed an application dated November 20, 2009, with the Board of Registered Nursing to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2012-462 was filed before the Board of Registered Nursing ("Board"); Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were served on Respondent on February 22, 2012. The First Amended Statement of Issues was properly served on Respondent on May 15, 2012.

5. A copy of First Amended Statement of Issues No. 2012-462 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2012-462. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in First Amended Statement of Issues No. 2012-462.

10. Respondent agrees that her Applicant for Registered Nurse License is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

///

///

DISCIPLINARY ORDER

IT IS HEREBY ORDERED

1. The application of Respondent Angelica Ojeda for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of five (5) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

1 3. **Report in Person.** Respondent, during the period of probation, shall appear in
2 person at interviews/meetings as directed by the Board or its designated representatives.

3 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
4 practice as a registered nurse outside of California shall not apply toward a reduction of this
5 probation time period. Respondent's probation is tolled, if and when she resides outside of
6 California. Respondent must provide written notice to the Board within 15 days of any change of
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or
8 returning to practice in this state.

9 Respondent shall provide a list of all states and territories where she has ever been licensed
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
11 information regarding the status of each license and any changes in such license status during the
12 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
13 license during the term of probation.

14 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
15 or cause to be submitted such written reports/declarations and verification of actions under
16 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
17 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
18 Respondent shall immediately execute all release of information forms as may be required by the
19 Board or its representatives.

20 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
21 state and territory in which she has a registered nurse license.

22 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
23 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
24 6 consecutive months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered nursing"
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
27 non-direct patient care position that requires licensure as a registered nurse.

28 The Board may require that advanced practice nurses engage in advanced practice nursing

1 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

2 If Respondent has not complied with this condition during the probationary term, and
3 Respondent has presented sufficient documentation of her good faith efforts to comply with this
4 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
5 extension of Respondent's probation period up to one year without further hearing in order to
6 comply with this condition. During the one year extension, all original conditions of probation
7 shall apply.

8 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
9 prior approval from the Board before commencing or continuing any employment, paid or
10 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
11 performance evaluations and other employment related reports as a registered nurse upon request
12 of the Board.

13 Respondent shall provide a copy of this Decision to her employer and immediate
14 supervisors prior to commencement of any nursing or other health care related employment.

15 In addition to the above, Respondent shall notify the Board in writing within seventy-two
16 (72) hours after she obtains any nursing or other health care related employment. Respondent
17 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
18 separated, regardless of cause, from any nursing, or other health care related employment with a
19 full explanation of the circumstances surrounding the termination or separation.

20 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
21 Respondent's level of supervision and/or collaboration before commencing or continuing any
22 employment as a registered nurse, or education and training that includes patient care.

23 Respondent shall practice only under the direct supervision of a registered nurse in good
24 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
25 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
26 approved.

27 Respondent's level of supervision and/or collaboration may include, but is not limited to the
28 following:

1 (a) Maximum - The individual providing supervision and/or collaboration is present in
2 the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
4 care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
6 person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health care
8 setting, the individual providing supervision and/or collaboration shall have person-to-person
9 communication with Respondent as required by the Board each work day. Respondent shall
10 maintain telephone or other telecommunication contact with the individual providing supervision
11 and/or collaboration as required by the Board during each work day. The individual providing
12 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
13 patients' homes visited by Respondent with or without Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
15 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
16 or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
18 registered nursing supervision and other protections for home visits have been approved by the
19 Board. Respondent shall not work in any other registered nursing occupation where home visits
20 are required.

21 Respondent shall not work in any health care setting as a supervisor of registered nurses.
22 The Board may additionally restrict Respondent from supervising licensed vocational nurses
23 and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing or as an
25 instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

28 If Respondent is working or intends to work in excess of 40 hours per week, the Board may

request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other

1 than a mental or physical illness; or

2 (2) One year for a license surrendered for a mental or physical illness.

3 13. **Physical Examination.** Within 45 days of the effective date of this Decision,
4 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
5 assistant, who is approved by the Board before the assessment is performed, submit an
6 assessment of the Respondent's physical condition and capability to perform the duties of a
7 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
8 medically determined, a recommended treatment program will be instituted and followed by the
9 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
10 to the Board on forms provided by the Board.

11 If Respondent is determined to be unable to practice safely as a registered nurse, the
12 licensed physician, nurse practitioner, or physician assistant making this determination shall
13 immediately notify the Board and Respondent by telephone, and the Board shall request that the
14 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
15 immediately cease practice and shall not resume practice until notified by the Board. During this
16 period of suspension, Respondent shall not engage in any practice for which a license issued by
17 the Board is required until the Board has notified Respondent that a medical determination
18 permits Respondent to resume practice. This period of suspension will not apply to the reduction
19 of this probationary time period.

20 If Respondent fails to have the above assessment submitted to the Board within the 45-day
21 requirement, Respondent shall immediately cease practice and shall not resume practice until
22 notified by the Board. This period of suspension will not apply to the reduction of this
23 probationary time period. The Board may waive or postpone this suspension only if significant,
24 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
25 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
26 Only one such waiver or extension may be permitted.

27 14. **Participate in Treatment/Rehabilitation Program for Chemical Dependence.**
28 Respondent, at her expense, shall successfully complete during the probationary period or shall

1 have successfully completed prior to commencement of probation a Board-approved
2 treatment/rehabilitation program of at least six months duration. As required, reports shall be
3 submitted by the program on forms provided by the Board. If Respondent has not completed a
4 Board-approved treatment/rehabilitation program prior to commencement of probation,
5 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
6 If a program is not successfully completed within the first nine months of probation, the Board
7 shall consider Respondent in violation of probation.

8 Based on Board recommendation, each week Respondent shall be required to attend at least
9 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
10 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
11 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
12 added. Respondent shall submit dated and signed documentation confirming such attendance to
13 the Board during the entire period of probation. Respondent shall continue with the recovery plan
14 recommended by the treatment/rehabilitation program or a licensed mental health examiner
15 and/or other ongoing recovery groups.

16 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
17 completely abstain from the possession, injection or consumption by any route of all controlled
18 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
19 are ordered by a health care professional legally authorized to do so as part of documented
20 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
21 days, by the prescribing health professional, a report identifying the medication, dosage, the date
22 the medication was prescribed, the Respondent's prognosis, the date the medication will no
23 longer be required, and the effect on the recovery plan, if appropriate.

24 Respondent shall identify for the Board a single physician, nurse practitioner or physician
25 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
26 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
27 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
28 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances

1 considered addictive have been prescribed, the report shall identify a program for the time limited
2 use of any such substances.

3 The Board may require the single coordinating physician, nurse practitioner, or physician
4 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
5 medicine.

6 **16. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
7 random, biological fluid testing or a drug screening program which the Board approves. The
8 length of time and frequency will be subject to approval by the Board. Respondent is responsible
9 for keeping the Board informed of Respondent's current telephone number at all times.

10 Respondent shall also ensure that messages may be left at the telephone number when she is not
11 available and ensure that reports are submitted directly by the testing agency to the Board, as
12 directed. Any confirmed positive finding shall be reported immediately to the Board by the
13 program and Respondent shall be considered in violation of probation.

14 In addition, Respondent, at any time during the period of probation, shall fully cooperate
15 with the Board or any of its representatives, and shall, when requested, submit to such tests and
16 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
17 hypnotics, dangerous drugs, or other controlled substances.

18 If Respondent has a positive drug screen for any substance not legally authorized and not
19 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
20 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
21 practice pending the final decision on the petition to revoke probation or the accusation. This
22 period of suspension will not apply to the reduction of this probationary time period.

23 If Respondent fails to participate in a random, biological fluid testing or drug screening
24 program within the specified time frame, Respondent shall immediately cease practice and shall
25 not resume practice until notified by the Board. After taking into account documented evidence
26 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
27 suspend Respondent from practice pending the final decision on the petition to revoke probation
28 or the accusation. This period of suspension will not apply to the reduction of this probationary

1 time period.

2 **17. Mental Health Examination.** Respondent shall, within 45 days of the effective date
3 of this Decision, have a mental health examination including psychological testing as appropriate
4 to determine her capability to perform the duties of a registered nurse. The examination will be
5 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
6 the Board. The examining mental health practitioner will submit a written report of that
7 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
8 Recommendations for treatment, therapy or counseling made as a result of the mental health
9 examination will be instituted and followed by Respondent.

10 If Respondent is determined to be unable to practice safely as a registered nurse, the
11 licensed mental health care practitioner making this determination shall immediately notify the
12 Board and Respondent by telephone, and the Board shall request that the Attorney General's
13 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
14 practice and may not resume practice until notified by the Board. During this period of
15 suspension, Respondent shall not engage in any practice for which a license issued by the Board
16 is required, until the Board has notified Respondent that a mental health determination permits
17 Respondent to resume practice. This period of suspension will not apply to the reduction of this
18 probationary time period.

19 If Respondent fails to have the above assessment submitted to the Board within the 45-day
20 requirement, Respondent shall immediately cease practice and shall not resume practice until
21 notified by the Board. This period of suspension will not apply to the reduction of this
22 probationary time period. The Board may waive or postpone this suspension only if significant,
23 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
24 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
25 Only one such waiver or extension may be permitted.

26 **18. Therapy or Counseling Program.** Respondent, at her expense, shall participate in
27 an on-going counseling program until such time as the Board releases her from this requirement
28 and only upon the recommendation of the counselor. Written progress reports from the counselor

1	will be required at various intervals.
2	///
3	///
4	///
5	///
6	///
7	///
8	///
9	///
10	///
11	///
12	///
13	///
14	///
15	///
16	///
17	///
18	///
19	///
20	///
21	///
22	///
23	///
24	///
25	///
26	///
27	///
28	///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

DATED:

ANGELICA OJEDA, AKA ANGELICA IBARRA
Respondent

Dated:

KATHERINE MESSANA
Deputy Attorney General
Attorneys for Complainant

STIPULATED SETTLEMENT (2012-462)

Exhibit A

First Amended Statement of Issues No. 2012-462

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ
Deputy Attorney General
4 State Bar No. 141773
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 2012-462

13 **ANGELICA OJEDA, AKA ANGELICA**
14 **IBARRA**

**FIRST AMENDED STATEMENT OF
ISSUES**

15
16 Applicant for Registered Nurse License

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
22 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about December 7, 2009, the Board of Registered Nursing (Board) received an
25 application for Licensure by Examination as a Registered Nurse License from Angelica Ojeda,
26 aka Angelica Ibarra (Respondent). On or about November 20, 2009, Angelica Ojeda certified
27 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
28 application. The Board denied the application on September 14, 2011.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 480 provides, in pertinent part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means . . . a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

....

“(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.”

5. Section 490 provides, in pertinent part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties

of the business or profession for which the licensee's license was issued.

“(c) A conviction within the meaning of this section means . . . a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6. Section 2761 provides, in pertinent part:

“The board may . . . deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct

. . . .

“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

7. Section 2762 provides, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act, § 2700 et seq.], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

. . . .

“(b) Use . . . alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the . . . consumption . . . of any of the substances described in subdivisions (a) and (b) of this section”

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, provides, in pertinent part:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or

1 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
2 safety, or welfare.”

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Convictions of Substantially Related Crimes)**

5 9. Respondent’s application is subject to denial under sections 480, subdivision (a)(1),
6 and 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section
7 1444, in that Respondent was convicted of crimes that are substantially related to the
8 qualifications, functions, and duties of a registered nurse as follows:

9 a. On or about January 27, 2011, Respondent pleaded nolo contendere to and was
10 convicted of one misdemeanor count of violating Penal Code sections 242 through 243,
11 subdivision (a) [battery], in the criminal proceeding entitled *People v. Ojeda* (Super. Ct. Los
12 Angeles County, 2010, No. 0GN03608). The court placed Respondent on probation for a period
13 of 36 months, ordered Respondent to enroll in and complete a 52-week domestic violence
14 counseling program, and attend 104 Alcoholic Anonymous meetings at the rate of 2 meetings per
15 week for 52 weeks, and fined her. The circumstances surrounding the conviction are that on or
16 about August 29, 2011, Glendale police officers were dispatched to Respondent’s place of
17 residence in the city of Glendale, California, regarding a domestic violence in progress. The
18 officers arrived at Respondent’s place of residence and interviewed the victim, Respondent’s live-
19 in boyfriend, and her daughter, who stated that Respondent assaulted the live-in boyfriend after
20 he hid a bottle of wine from her. The boyfriend told the police that Respondent has a drinking
21 problem, and becomes violent after drinking. The boyfriend also stated that he told Respondent
22 several times not to drink because she becomes belligerent after drinking. The officers observed
23 several scratches on the right side of the boyfriend’s chest.

24 b. On or about December 2, 2010, Respondent pleaded nolo contendere to and was
25 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
26 [driving while having 0.08 percent or more, by weight, of alcohol in the blood], in the criminal
27 proceeding entitled *People v. Ojeda* (Super. Ct. Los Angeles County, 2010, No. 0AH04425). The
28 court sentenced Respondent to 36 months’ criminal probation. The circumstances surrounding

1 the conviction are that on or about June 1, 2010, police officers from the South Pasadena Police
2 Department were dispatched to the city of Pasadena because of a traffic collision. The officers
3 arrived at the scene and found Respondent sitting behind the driver's wheel of the vehicle. The
4 officers observed Respondent to have bloodshot and watery eyes, sweating profusely, and had a
5 strong odor of an alcoholic beverage coming from her breath. Respondent admitted to officers
6 that she drank a glass of wine about two hours earlier. A bottle of Francis Coppola wine was
7 recovered from Respondent's front passenger seat. Respondent agreed to a series of field sobriety
8 test which she failed to complete satisfactorily. Respondent subsequently consented to two breath
9 test, both with results of .23 percent blood alcohol content.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Conviction Involving Alcohol)**

12 10. Respondent's application is subject to denial under sections 480, subdivision (a)(3)
13 and 2762, subdivision (c), in that Respondent was convicted of a crime involving the
14 consumption of an alcoholic beverage on December 2, 2010. Complainant refers to, and by this
15 reference incorporates, the allegations set forth above in paragraph 9, subparagraph (b), inclusive,
16 as though set forth fully.

17 **THIRD CAUSE FOR DENIAL OF APPLICATION**

18 **(Dangerous Use of Alcohol)**

19 11. Respondent's application is subject to denial under sections 480, subdivision (a)(3)
20 and section 2762, subdivision (b), in that Respondent used an alcoholic beverage on June 1, 2010,
21 in a manner dangerous or injurious to herself, the public, or to the extent that it impaired her
22 ability to conduct with safety to the public the practice of nursing authorized if she was licensed.
23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraph 9, subparagraph (b), inclusive, as though set forth fully.

25 **PRAYER**


26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board issue a decision:

28 1. Denying Angelica Ojeda, aka Angelica Ibarra's application for Licensure by

1 Examination, as a Registered Nurse License; and

2 2. Taking such other and further action as deemed necessary and proper.

3
4 DATED: April 17, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

5
6
7
8 LA2011505050
9 51081366
10 1/31/12-IC
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28